IN THE HIGH COURT OF JUDICTURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Suwa Nath. Versus Union of India & ors.

S.B. Civil Writ Petition No. 1488/2003

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Date of Order: January 05, 2007

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mrs. Deepika Vyas, for the petitioner.
Mr. D.S. Rajvi, for the respondents.

BY THE COURT:

By the instant writ petition, the petitioner seeks a direction to the respondents to release his retiral benefits like pension, provident fund amount etc. A reply to the writ petition has been filed by the respondents.

I have heard learned counsel for the parties.

It has been stated in the reply filed by the respondents that as per the Army Regulation No.595, the documents in respect of grant of pension and gratuity to JCOs, Wos, OR and Non-combatants (Enrolled) are to be retained by the Units and formation concerned for a period of fifty years in the case of a pensioner and for twenty five years in the other cases from the date an individual becomes non-effective. It has

been stated in the reply that the documents in respect of the petitioner are not available as after expiry of the period as noticed above, the same must have been weeded out by now. It has further been stated that the application filed by the petitioner suffers from inordinate delay and laches.

Even the facts stated in the writ petition does not make the petitioner entitled for grant of pension. The services rendered by the petitioner to the Nation as a soldier during Second World War,, as stated in the writ petition, were from 13.4.1942 to 12.12.1946, i. e. about 4 ½ years and, therefore, no case for entitlement of pension and other benefits is made out. However, the case of the petitioner for grant of ex gratia amount deserves to be considered by the respondent.

In this view of the matter, while disposing of the writ petition, the petitioner is permitted to move for ex gratia payment, through the District Sainik Board, to the respondents and if such an application for ex gratia payment is made by the petitioner, the respondents are directed to consider and grant ex gratia amount to the petitioner as a special case keeping in view the age of the petitioner. There shall be no order as to costs.

(H.R. PANWAR), J.

mcs